

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL DAVITT,

Plaintiff,

v.

No. 2:20-cv-00099-JCH-GJF

FNU CASTILLO and  
JOHN DOE,

Defendants.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff's failure to respond to the Court's Memorandum Opinion and Order Granting Application to Proceed In Forma Pauperis and to Show Cause, Doc. 4, filed February 5, 2020 ("Order to Show Cause").

Plaintiff alleges that he was mistreated in the Doña Ana Detention Center. *See* Complaint at 2, Doc. 1, filed February 3, 2020. Plaintiff states that he has begun another case in this Court dealing with the same facts involved in this action or otherwise relating to the conditions of his imprisonment. *See* Complaint at 4. Plaintiff's other case is currently pending. *See Davitt v. Doe*, 2:19-cv-00073-JB-KRS (D.N.M.) ("Previous Case").

Because it is not clear to the Court whether this case and the Previous Case are asserting the same causes of action, and therefore one of the cases should be dismissed as duplicative, or whether the two cases are asserting different causes of action, the Court ordered Plaintiff to file a notice in this case describing the differences, if any, between this case and the Previous Case. *See* Order to Show Cause at 3-4.

The Court also notified Plaintiff that the Complaint in this case fails to state a claim upon which relief can be granted and explained that to state a claim in federal court, a complaint must

explain what each defendant did to him or her; when the defendant did it; how the defendant's action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated. *See* Order to Show Cause at 4. The Court ordered Plaintiff to either show cause why the Court should not dismiss this case for failure to state a claim or file an amended complaint that states a claim, and notified Plaintiff that failure to timely show cause or file an amended complaint may result in dismissal of this case. *See* Order to Show Cause at 5.

The docket shows that the Order to Show Cause that the Court mailed to Plaintiff was returned to the Court as undeliverable and stamped with "Return to Sender, Attempted – Not Known, Unable to Forward." Doc. 5, filed February 18, 2020. "All attorneys of record and parties appearing *pro se* have a continuing duty to notify the Clerk, in writing, of any change in their ... mailing addresses ...." D.N.M.LR-Civ. 83.6.

Plaintiff did not file a response to the Order to Show Cause by the February 26, 2020, deadline.

**IT IS ORDERED** that this case is **DISMISSED without prejudice**.

  
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**SENIOR UNITED STATES MAGISTRATE JUDGE**